

**REMARKS**

Claim 22 is pending. Claim 22 is amended. Support for the claim amendments may be found in the specification, figures and claims as filed. No new matter has been added.

**Rejections under 35 U.S.C. § 112, first paragraph**

Claim 22 is rejected under 35 U.S.C. § 112, first paragraph. The Office Action states on page 5 that “one of skill in the art cannot ascertain that Applicants had possession of a detection method that achieved the intended test specificity of 90% or better and increased sensitivity to samples from pneumococcus-infected children with false positives due to nasopharyngeal pneumococcal colonization eliminated or minimized.”

Claim 22 is directed to a method for detecting a symptomatic *Streptococcus pneumoniae* infection in a human subject of age 12 years or less. Claim 22 does not require a specificity of 90% or better (although such a test is within the scope of claim 22). The Office Action on page 6 quotes *Vas-Cath, Inc. v. Mathukar*, 19 U.S.P.Q.2d 1111, stating that, “Applicants must convey with reasonable clarity to those of skill in the art that, as of the filing date sought, he or she was in possession of the invention. The invention is, for purposes of the written description inquiry, whatever is now claimed.” As claim 22 does not require an intended specificity of 90% or better, Applicants believe that claim 22 complies with the written description requirement.

Reconsideration and withdrawal of this rejection is respectfully requested.

**Rejections under 35 U.S.C. § 112, second paragraph**

Claim 22 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite.

The Office Action indicates that the term “the antigen” is vague. Claim 22 has been amended to state “the C-polysaccharide antigen” as suggested by the Examiner.

The Office Action indicates that the term “conjugates” is vague. Claim 22 has been amended to state “conjugates of the tagged purified antibodies and the C-polysaccharide antigen” as suggested by the Examiner.

The Office Action indicates that the phrase “the mixture, including the conjugates” is vague. Claim 22 has been amended to state “the mixture comprising the conjugates” as suggested by the Examiner.

The Office Action indicates that the phrase “the scrub line antibodies immobilized” is vague. Claim 22 has been amended to state “the scrub line antibodies having been immobilized” as suggested by the Examiner.

The Office Action indicates that the phrase “the capture line antibodies immobilized” is vague. Claim 22 has been amended to state “the capture line antibodies having been immobilized” as suggested by the Examiner.

The Office Action indicates that the phrase “the capture line antibodies specific for the conjugates immobilized in the capture line downstream of the at least one scrub line” is vague. Claim 22 has been amended to state “the immobilized capture line antibodies specific for the conjugates” as suggested by the Examiner.

The Office Action indicates that the phrases “scrub line antibodies specific for the conjugates” and “capture line antibodies specific for the conjugates” are vague and indefinite, as it is not clear to the Examiner if these are “the same antibodies each with specificity to the conjugates, but used in two different locations, i.e. in capture lines and in scrub lines.”

Claim 22 requires “...allowing the binding of the conjugates of the tagged purified antibodies and the C-polysaccharide antigen to scrub line antibodies specific for the conjugates of the tagged purified antibodies and the C-polysaccharide antigen, the scrub line antibodies having been immobilized in at least one scrub line along the bibulous test strip...” and “...allowing the binding of capture line antibodies specific for the conjugates of the tagged purified antibodies and the C-polysaccharide antigen, the capture line antibodies having been immobilized in a capture line downstream of the at least one scrub line, to the conjugates of the tagged purified antibodies and the C-polysaccharide antigen...”. Applicants believe that this claim is not indefinite, as the claim states that both the scrub line antibodies and the capture line antibodies are specific for the conjugates of the tagged purified antibodies and the C-polysaccharide antigen. The claim also states that the scrub line antibodies are immobilized in at least one scrub line along the bibulous test strip, and that the capture line antibodies are immobilized in a capture line downstream of the at least one scrub line.

Reconsideration and withdrawal of these rejections is respectfully requested.

**Conclusion**

In view of the above amendments and remarks, the Applicants believe that the pending claims are in condition for allowance. If a telephone conversation with Applicant's Agent would expedite prosecution of the application, the Examiner is urged to contact the undersigned.

Dated: June 5, 2009

***Customer No: 63737***

Respectfully submitted,  
FOLEY HOAG LLP

By /Janann Y. Ali/  
Janann Y. Ali, Ph.D., Reg. No. 54,958  
FOLEY HOAG LLP  
155 Seaport Blvd  
Boston, Massachusetts 02210  
(617)832-1749  
Agent for Applicants